

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

DAVID E. DEWBERRY,

Plaintiff,

v.

Case Number: 06-11683-BC  
Honorable David M. Lawson

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATION, OVERRULING OBJECTIONS, AND DISMISSING CASE**

Presently before the Court is the report issued on May 19, 2006 by Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. § 636(b), recommending that this Court *sua sponte* dismiss the case because the plaintiff's claim is barred by the statute of limitations. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. Instead, the plaintiff filed a notice of appeal to the United States Court of Appeals for the Sixth Circuit.

The plaintiff's attempt to appeal the magistrate judge's report and recommendation is invalid because the magistrate's report is not a final order. 28 U.S.C. §§ 636, 1291. *See also United States v. Walters*, 638 F.2d 947, 949 (6th Cir. 1981) (holding that "[d]irect appeals from the magistrate's findings are correctly denied, because only final orders of the district court are appealable pursuant to 28 U.S.C. § 1291"); *Carter v. Cincinnati Magazine Co.*, 779 F.2d 49 (table), 1985 WL 13880, \*1 (6th Cir. 1985) (stating that where a case "is still pending before the district court for ruling on the report and recommendation of the United States Magistrate, [the Sixth Circuit] is without jurisdiction to review the matter in the absence of a final order."). The Court notes that the plaintiff

appears pro se. Even if the Court were to liberally construe the notice of appeal as an objection to the magistrate judge's recommendation, the plaintiff's filing would be insufficient to preserve any claimed errors. The Sixth Circuit recently noted, "[o]verly general objections do not satisfy the objection requirement." *Spencer v. Bouchard*, \_\_ F.3d \_\_, 2006 WL 1528876, \*2 (6th Cir. June 6, 2006). "The objections must be clear enough to enable the district court to discern those issues that are dispositive and contentious." *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir.1995). "[O]bjections disput[ing] the correctness of the magistrate's recommendation but fail[ing] to specify the findings . . . believed [to be] in error' are too general." *Spencer*, 2006 WL 1528876, at \*2. In addition, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 6] is **ADOPTED**, the plaintiff's objections are **OVERRULED**, and the plaintiff's case is **DISMISSED WITH PREJUDICE**.

s/David M. Lawson  
 DAVID M. LAWSON  
 United States District Judge

Dated: June 12, 2006

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 12, 2006.

s/Tracy A. Jacobs  
 TRACY A. JACOBS